

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL HOLTSINGER,

Plaintiff,

No. CIV S-03-0732 MCE CMK P

vs.

J.M. BRIDDLE, et al.,

Defendants.

ORDER TO SHOW CAUSE

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Plaintiff, a state prisoner proceeding without counsel and in forma pauperis, seeks relief pursuant to 42 U.S.C. § 1983.

Plaintiff filed his complaint on April 9, 2003. The court deemed that service was appropriate for several defendants, including defendant Knight. Plaintiff has made several unsuccessful attempts to serve defendant Knight. The docket reveals that this court has ordered plaintiff to utilize discovery and the California Public Records Act to locate defendant Knight. On October 5, 2004, the court ordered defendant's counsel to query the Department of Corrections (CDC) to ascertain defendant Knight's whereabouts. On August 30, 2005, the court ordered the United States Marshal's service to attempt to personally serve defendant Knight. Each attempt to locate an address for defendant Knight has been unsuccessful.

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1 On February 24, 2006, the court found that plaintiff has provided the court with a
2 possible address for defendant Knight, and allowed plaintiff to make another service attempt on
3 defendant Knight. On May 30, 2006, process directed to defendant Knight was returned
4 unserved because the Marshal's service was "unable to locate" defendant Knight.

5 Plaintiff's in forma pauperis status relieves him of the responsibility of effecting
6 service, but Plaintiff is still responsible for providing sufficient information to serve the
7 defendants. See Walker v. Sumner, 14 F.3d 1415, 1422 (9th Cir. 1994) (abrogated on other
8 grounds). The court has attempted to assist plaintiff in obtaining information to serve defendant
9 Knight, however, plaintiff has been unable to provide information to serve her.

10 Federal Rule of Civil Procedure 4(m) provides that if service is not made on a
11 defendant within 120 days after the filing of the complaint, the court may, on its own initiative
12 after notice to the plaintiff, dismiss the action without prejudice as to that defendant. Fed. R.
13 Civ. P 4(m). More than 120 days have passed since defendant filed his amended complaint on
14 April 9, 2003.

15 Accordingly, IT IS ORDERED that, within twenty days of the filing of this order,
16 plaintiff shall show good cause, in writing for his failure to serve defendant Knight. Failure to
17 respond to this order will result in a recommendation that defendant Knight be dismissed from
18 this action.

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20 DATED: June 2, 2006.

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23 **CRAIG M. KELLISON**
24 UNITED STATES MAGISTRATE JUDGE
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